

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA OF
EASTERN DIVISION

TIMOTHY LEE SUNDAY, #213453,)
Petitioner,)
v.) CASE NO. 3:07-cv-0723-MEF
LEE COUNTY CIRCUIT COURT)
ALABAMA, *et al.*,)
Respondents.)

ORDER

After an independent review of the file, it is the ORDER, JUDGMENT and DECREE of the court that:

- (1) The petitioner's Objection to the Magistrate Judge Recommendation (Doc. #9) filed on September 12, 2007 is OVERRULED;
- (2) The Recommendation of the United States Magistrate Judge (Doc. #8) entered on August 30, 2007 is ADOPTED;
- (3) To the extent Sunday presents claims which substantively address federal grounds for setting aside his sexual abuse conviction, this action constitutes a second or successive habeas petition and, with respect to such claims, is DISMISSED in accordance with the provisions of 28 U.S.C. § 2244(b)(3)(A) as Sunday has failed to obtain the requisite order from the Eleventh Circuit Court of Appeals authorizing a federal district court to consider his successive habeas application.
- (4) The petitioner's motion for relief from judgment under Rule 60(b) of the Federal

Rules of Civil Procedure is DENIED.

(5) This case is DISMISSED with prejudice.

DONE this 27th day of September, 2007.

/s/ Mark E. Fuller
CHIEF UNITED STATES DISTRICT JUDGE